

10. LOBBYING

BASIC REQUIREMENT

Recipients of Federal grants and contracts exceeding \$100,000 must certify compliance with restrictions on lobbying before they can receive funds.

AREAS TO BE EXAMINED

1. *Certification*
2. *Disclosure*
3. *Oversight*

REFERENCES

1. [49 CFR Part 20](#), "New Restrictions on Lobbying"

USEFUL WEB LINKS

[Best Practices Procurement Manual](#)

[Standard Form LLL](#)

COMPLIANCE

An entity that fails to file or amend the lobbying disclosure may be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure to file.

QUESTIONS FOR THE REVIEW

1. *Has the grantee included the lobbying certification in all FTA funded agreements and procurement solicitations exceeding \$100,000? Have subrecipients, contractors, and subcontractors signed certifications?*
2. *How does the grantee monitor subrecipients and contractors to ensure that they include the lobbying certifications in solicitations and obtain signed certifications from contractors awarded contracts in excess of \$100,000?*

EXPLANATION

Grantees are required to include the lobbying certification in agreements, contracts, and subcontracts exceeding \$100,000. Signed certifications regarding lobbying must be obtained by the grantee from subrecipients and contractors. Subrecipients retain their contractors' certifications and contractors retain subcontractors' certifications. The grantee is responsible for ensuring that they fulfill the requirements in applicable direct procurements exceeding \$100,000.

REFERENCE

[49 CFR Part 20](#)

SOURCES OF INFORMATION

The reviewer will examine solicitation documents, contract files, and subrecipient applications and agreements. On site, the reviewer will discuss with staff the mechanisms used to inform subrecipients and contractors and to monitor compliance with lobbying requirements.

DETERMINATION

The grantee is deficient if it has not included the lobbying certification in its agreements and procurement solicitations.

The grantee is deficient if it has not obtained the proper certifications from contractors and subrecipients.

The grantee is deficient if it does not ensure subrecipient and contractor compliance with restrictions on lobbying requirements.

SUGGESTED CORRECTIVE ACTION

The grantee will be directed to submit to the FTA regional office updated written procurement procedures that include the requirement to obtain signed certifications from subgrantees, contractors, and/or subcontractors.

The grantee will be directed to submit to FTA regional office procedures for ensuring that subrecipients and/or contractors comply with lobbying requirements.

3. *Has the grantee used non-Federal funds for lobbying activities? If yes, have proper disclosures been made and filed with FTA on Standard Form LLL? Have all disclosures been updated quarterly, if needed, and so reported?*

EXPLANATION

The use of Federal funds for lobbying is prohibited. If lobbying services are procured with non-Federal funds, the grantee is required to submit the disclosure form, Standard Form LLL. Activities that are required to be disclosed include the hiring of any third party (i.e., lobbyist) for the purposes of attempting to influence a covered federal action. Disclosure is not required for activities performed by the grantee's own regularly employed officers and employees.

Covered Federal action means any of the following federal actions:

- The awarding of any Federal contract
- The making of any Federal grant
- The making of any Federal loan
- The entering into any Federal cooperative agreement
- The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement

Updates to Standard Form LLL are required for each calendar quarter in which any event occurs that requires disclosure, or that materially affects the accuracy of the information contained in any disclosure form previously filed by the entity. Those events may include:

- a cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a "covered federal action"
- a change in the person(s) attempting to influence such action

- a change in the officer(s), employee(s), or member(s) contacted to attempt to influence such action

REFERENCE

[49 CFR Part 20](#)
[Standard Form LLL](#)

SOURCES OF INFORMATION

During the desk review, the reviewer will interview the regional counsel. The Standard Form LLL and quarterly reports are forwarded to the regional counsel. During the site visit, the reviewer will discuss with the grantee the process for receiving and forwarding the disclosure statements.

DETERMINATION

The grantee is deficient if it did not file a Standard Form LLL and/or a quarterly report for an event that should have been reported.

SUGGESTED CORRECTIVE ACTION

The grantee will be directed to submit to the FTA regional office the documentation as required and to develop and/or document the process to ensure timely reporting in the future.

4. *Have subrecipients, contractors, and subcontractors that filed certifications used non-Federal funds for lobbying activities? If yes, have proper disclosures been made and filed with the grantee on Standard Form LLL? Did the grantee file the disclosures with FTA?*

EXPLANATION

Any subrecipient, contractor, and subcontractor in receipt of a grant or contract exceeding \$100,000 is subject to the same disclosure and updating requirements as the grantee. All certifying entities must ensure that any quarterly disclosure forms are forwarded to the grantee which must forward them to FTA.

REFERENCE

[49 CFR Part 20](#)
[Standard Form LLL](#)

SOURCES OF INFORMATION

During the desk review, the reviewer will interview the regional counsel. The Standard Form LLL and quarterly reports are forwarded to the regional counsel. During the site visit, the reviewer will discuss with the grantee the process for receiving and forwarding the disclosure statements.

DETERMINATION

The grantee is deficient if it did not obtain a Standard Form LLL or a quarterly report from a subrecipient, contractor, or subcontractor for an event that should have been reported.

The grantee is deficient if it did not forward a Standard Form LLL or quarterly report submitted by a subrecipient, contractor, or subcontractor to FTA.

SUGGESTED CORRECTIVE ACTION

The grantee will be directed to submit the documentation to the FTA regional office as required and to develop and/or document the process to ensure timely reporting in the future.